

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

REGINALD HERBIN,

Plaintiff,

-against-

THE CITY OF NEW YORK, et al.,

Defendants.

22-CV-5890 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff brings this action *pro se*. By order dated August 22, 2022, the Court directed Plaintiff, within 30 days, to submit a request to proceed *in forma pauperis* (IFP) or pay the \$402.00 in fees required to file a civil action in this court.¹ That order specified that failure to comply would result in dismissal of the complaint. Because Plaintiff failed to pay the fees or file an IFP application, by order dated December 7, 2022, the Court dismissed the complaint without prejudice. *See* 28 U.S.C. §§ 1914, 1915. The next day, however, the Court received from Plaintiff an IFP application.² In light of Plaintiff's *pro se* status, the Court accepts the late submission.

Accordingly, the Court directs the Clerk of Court to vacate the December 7, 2022, order and judgment (ECF 5-6), and to reopen this action for further proceedings.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf.*

¹ On October 18, 2022, Plaintiff informed the Court that he was detained at the Anna M. Kross Center on Rikers Island. On October 21, 2022, the Clerk's Office sent a copy of the order to Plaintiff at that facility.

² Plaintiff also submitted a prisoner authorization form. Because he was not a prisoner at the time he filed this action, the prisoner authorization is not needed. *See* 28 U.S.C. §§ 1914, 1915.

Coppedge v. United States, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: January 20, 2023
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge